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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS**

MOSES T. FEJERAN and
QIANYAN S. FEJERAN,

Plaintiffs,

vs.

AVIATION SERVICES (CNMI), LTD.
d.b.a. FREEDOM AIR,

Defendant.

) **CIVIL ACTION NO. 05-0033**

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) **JOINT MOTION TO RE-SET TRIAL**
) **DATE**

)

) **Date:**

) **Time:**

) **Judge: Munson**

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1. Introduction

The parties, by and through counsel, hereby respectfully move this Court to vacate the current trial date set for the above-captioned matter and re-establish a trial new trial date so that the parties will have sufficient time for the respective experts to complete their work and to then conduct expert discovery.

Due to tight schedules, limited availability, and off-island locations of the expert witnesses retained by the parties, coupled with the expense and difficulty of transporting these experts to the CNMI to conduct necessary medical examinations and/or depositions, the current trial date set to commence on December 11, 2006 has become untenable.

1 **2. Facts and Circumstances To Show Good Cause for Granting This Motion**

2 As this Court knows, the difficulty involved in locating and retaining expert witnesses is
3 compounded because of the geographic isolation of the CNMI. The parties have retained
4 several expert witnesses, all of whom live either on the U.S. mainland or Hawaii. Specifically,
5 Plaintiff's have retained Mr. Frank Perez ("Mr. Perez") as a liability expert and Ms. Doris
6 Schriver ("Ms. Shriver") as a life-care planning expert. As yet, Plaintiff has not retained a
7 medical doctor to provide expert medical testimony, though Plaintiff may need to do so
8 depending upon the opinions rendered by Defendant's medical expert. *See* Declaration of
9 George Hasselback ("Hasselback Decl.") attached hereto as "Exhibit A".
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12 Fortunately, Mr. Perez had the opportunity to conduct his evaluation of the aircraft
13 stairway while recently in Guam on other business, but his preparation of his expert report is
14 still expected to take until mid to late September at the earliest. *Id.* Since Defendant has also
15 retained a liability expert (*See* Declaration of David Ledger ("Ledger Decl.") attached hereto as
16 "Exhibit B"), once the individual expert reports are completed, time will be necessary for each
17 expert to review their counterpart's opinions. This will further delay their final deposition and
18 the conclusion of expert discovery. Eventual depositions of Mr. Perez and Defendant's liability
19 expert could at best occur no earlier than late October to early November.
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23 Additionally, Ms. Schriver, newly retained by Plaintiff as soon as the need for her
24 became known and not objected to by defendant, will need to travel to the CNMI to conduct her
25 examination of Plaintiff. Exhibit A. She had planned on traveling to Guam for a trial in mid-
26 October, but this matter has settled. *Id.* She has no current plans to travel to the CNMI or Guam
27 in the near future and arrangements must be made to get her and the Plaintiff in the same place
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1 at the same time. *Id.* Plaintiff's counsel is attempting to coordinate this now, but with Ms.
2 Schriver's busy schedule and the great distances involved this is proving to be difficult and
3 likely not to occur before mid-October. *Id.* The parties are also looking at having Schriver's
4 examination conducted in Hawaii at the same time Plaintiff will appear there for an IME.
5 Regardless of the eventual location for Schriver's examination, she then will need time to
6 complete her final report. Subsequent to that, the Defendant will need time to examine this
7 report to determine if it will need to retain a rebuttal expert. Obviously, Plaintiff must allow
8 sufficient time for rebuttal given Schriver's recent entry into the case. Again, under the best of
9 circumstances, discovery as to Ms. Schriver's opinions and any rebuttal by Defendants will not
10 be concluded until the very eve of the current trial date.
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14 Furthermore, because of difficulties in obtaining a ***complete*** set of medical records from
15 the Commonwealth Health Center, Defendant had to serve a subpoena on CHC to obtain
16 missing items, and then had to serve an additional subpoena on Guam Radiology Clinic to
17 obtain diagnostic films supposedly not in the possession of CHC. In the circumstances,
18 Defendant has not been able to get a ***complete*** set of medical records to its medical expert, Dr.
19 Peter Diamond ("Dr. Diamond") until relatively recently. *See* Ledger Decl. Though Dr.
20 Diamond is currently formulating his opinions based on a review of medical records, the most
21 likely scenario is that Dr. Diamond will not be able to complete a final report absent an IME.
22 *Id.* As with the aforementioned experts, even giving Plaintiff's counsel the minimum reasonable
23 time to examine this final report and prepare for Dr. Diamond's deposition, the deposition will
24 be likewise pushed to very near the December 11th trial date. This does not even begin to
25 contemplate the possibility that Plaintiff will need to hire a rebuttal medical expert should Dr.
26 Diamond's opinions make that necessary.
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